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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/663,016
Filing Date: September 15, 2003
Appellant(s): STECYK, POLLY

Mark J. Shean
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/06/2011 appealing from the Office action mailed 02/01/2011.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Application 10/663,015.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 – 14 and 22 – 35.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

7,134,130	Thomas	11-2006
2004/0078806	Johnson et al.	04-2004
2009/0282428	Rodriguez	11-2009

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 14 and 22 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (Patent No 7,134,130) in view of Johnson et al. (Pub No US 2004/0078806) further in view of Rodriguez et al. (Pub No US 2009/0282428). Hereinafter referenced as Thomas, Johnson and Rodriguez, respectively.

Regarding **claim 1**, Thomas discloses a consumer electronics device having media supervision enforcement circuitry for supervising personal exposure to user discernible information, comprising:

a first logic unit configured for generating viewer indicators indicative of viewers present in a viewing area (image recognition [212] determines that a user is present in a given area having access to the display, column 7 lines 43-44 also exhibited on fig 2);

non-volatile memory configured for receiving viewing profiles (viewing criteria [216] specifies which users have access to a content or various types of content, column 9 lines 57-59; a memory containing user profiles, column 2 lines 9-13; moreover, Thomas discloses that all the IDE connectors [124] are standard devices such as hard drives, which are non volatile memory, column 5 lines 24-27);

a second logic unit coupled to the first logic unit and the non-volatile memory and being configured for comparing a viewer indicator with viewing profiles to identify an active viewing profile and a content-based indicator (rating) with the active viewing profile (decision and command processor [214] couples to image recognition [212] or first memory and also couples to viewing criteria [216] or non-volatile memory as exhibited on figure 2; Moreover, decision and command processor [214] compares the user currently being recognized with the viewing criteria corresponding to that user, column 9 lines 59-63),

the second logic unit being further configured for generating a control signal in response to the comparison between the content-based indicator and the viewing profiles (control signal [215], column 6 lines 57-58 also exhibited on fig 2);

and a signal impairment mechanism coupled to the second logic unit and configured for, based on the control signal, selectively passing a program signal there through without substantial impairment corresponding to the active viewing profile or passing the program signal there through with substantial impairment if the content – based indicator exceeds corresponding to the active viewing profile (display controller [222] selectively controlling the display of content information based content rating and user's profile, blocking or allowing the signal, column 7 lines 45-48 fig 2).

However, it is noted that Thomas fails to explicitly disclose a non-volatile memory configured for receiving a plurality of viewing profiles for selected viewers wherein the plurality of viewing profiles include content-based specifications and wherein one or more of the plurality of viewing profiles include two or more time range specifications

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and different content-based specifications corresponding to each of the two or more time range specifications; comparing a reference time with the active viewing profile; selectively passing a program signal there through without substantial impairment if the reference time falls outside of the two or more time range specifications corresponding to the active viewing profile or the content-based indicator does not exceed the content-based specification corresponding to one of the two or more of time range specifications of the active viewing profile within which the reference time falls or passing the program signal there through with substantial impairment if the content-based indicator exceeds the content-based specification corresponding to one of the two or more time range specifications of the active viewing profile within which the reference time falls within.

Nevertheless, in a similar field of endeavor Johnson discloses a non-volatile memory configured for receiving a plurality of viewing profiles for selected viewers (Paragraph [0016]),

wherein the plurality of viewing profiles include content-based specifications (Paragraph [0029] also exhibited on fig 5 and 6)

and wherein one or more of the plurality of viewing profiles include two or more time range specifications (Paragraph [0029] [0082] also exhibited on fig 6; weekday time ranges and weekend time ranges);

comparing a reference time (system 25 master clock) with the active viewing profile (Paragraphs [0061] [0062] figures 2 and 3; user 1, 2... 5);

selectively passing a program signal there through without substantial impairment if the reference time falls outside of the two or more time range

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specifications corresponding to the active viewing profile or the content-based indicator does not exceed the content-based specification corresponding to one of the two or more of time range specifications of the active viewing profile within which the reference time falls (Paragraph [0081]-[0083] figure 6; content meeting the preset profile rating limits are presented to the viewer),

or passing the program signal there through with substantial impairment if the content-based indicator exceeds the content-based specification corresponding to one of the two or more time range specifications of the active viewing profile within which the reference time falls within (Paragraph [0081]-[0083] figure 6; content over the preset profile rating limits are blocked to the viewer).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas by specifically providing the elements mentioned above, as taught by Johnson, for the predictable result of implementing a reliable and accurate parenting control scheme which allows children only watch appropriate content rating at predetermined times.

However, it is noted that Thomas and Johnson fail to explicitly disclose different content-based specifications corresponding to each of the two or more time range specifications.

Nevertheless, in a similar field of endeavor Rodriguez discloses different content-based specifications corresponding to each of the two or more time range specifications (Paragraphs [0124 [0116] figure 29C; blocking content based on content based parameters 2904 independently specific to each time range 2902).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the viewing profiles of Thomas and Johnson, by specifically providing a plurality of time range specification which corresponds to content based specifications, as taught by Rodriguez, for the purpose of implementing a reliable and accurate parenting control scheme which allows parents to block questionable content using a combination of time ranges and rating settings for different periods of time when children are awake and asleep.

Regarding **claim 2**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that each of the viewing profiles comprises a viewer specification (viewing criteria [216] that specifies the material that each user has access to, column 9 lines 57-59 also exhibited on fig 2)

and a content-based specification corresponding to the viewer specification (the broadcasted program includes a viewer rating, which indicates whether a user has access to it or not based on such information in relation to a user's profile, column 8 lines 4-15).

Regarding **claim 3**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 2; moreover, Thomas discloses an output device coupled to the signal impairment mechanism for transforming the program signal into the user

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discernible information (display [224] which displays the information to be viewable to a user, column 7 lines 40-42 also exhibited on fig 2).

Regarding **claim 4**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; however, it is noted that Thomas fails to explicitly disclose a data entry system for selectively inputting the viewer and content-based specifications into the non-volatile memory for storage.

Nevertheless, in a similar field of endeavor Johnson discloses a data entry system for selectively inputting the viewer and content-based specifications into the non-volatile memory for storage (Paragraph [0008]; figure 4-6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas by specifically providing the elements mentioned above, as taught by Johnson, for the purpose allowing the user to edit and add viewer profiles.

Regarding **claim 5**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the non-volatile memory includes a look-up list for storing a plurality of viewer specification and associated content-based specifications (user [99] programs the system [200] by providing a list of persons and a rating of content suitable for each of those persons or a person rating, column 10 lines 58-60; moreover, such list is located in the viewing criteria [216] which

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specifies what users have access to a content or various types of content, column 9 lines 57-59).

Regarding **claim 6**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the program signal carries the content-based indicator (program content signal [221] included a content indicator signal [219], column 6 lines 63-65), and

further comprising a data extraction device coupled to the logic unit for extracting the content-based indicator (decision and command processor [214] receives and extract the content indicator signal [219], column 7 lines 1-5).

Regarding **claim 7**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the signal impairment device is a switch (decision and command processor [214] can either totally block the signal or replace the signal by another signal, column 8 lines 20-23; where device [214] performs as a switch.

Regarding **claim 8**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the output device is a television system audio/video output device (display [224] displays a television signal, column 7 lines 17-21).

Regarding **claim 9**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the first logic unit is a computer configured to run facial recognition software (image recognition [212] determines that a user is present in a given area having access to the display, column 7 lines 43-44 also exhibited on fig 2; moreover, Thomas discloses that image recognition [212] includes a software program which controls the image recognition processor, col. 7 lines 54-55).

Regarding **claim 10**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that a camera coupled to the first logic unit and configured to continuously scan the viewing area associated with the consumer electronic device (room scanner [210] includes a video camera that acquires an image of the monitored are or room, column 7 lines 52-54 also exhibited on fig 2; moreover, Thomas discloses that the video camera can be any other similar imaging device, column 10 lines 33-34).

Regarding **claim 11**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that each of the viewing profiles comprises a viewer specification (a viewing criteria [216] which specifies the material that each user has access to, column 9 lines 57-59 also exhibited on fig 2).

However, it is noted that Thomas fails to explicitly disclose that each of the viewing profiles comprises a finite time range specification and a content-based

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specification corresponding to the viewer and time range specifications.

Nevertheless, in a similar field of endeavor Johnson discloses that each of the viewing profiles comprises a finite time range specification and a content-based specification corresponding to the viewer and time range specifications (Paragraphs [0029] [0061] [0082] also exhibited on fig 5 and 6; weekday time ranges, weekend time ranges and rating limits).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas by specifically providing the elements mentioned above, as taught by Johnson, for the purpose of implementing a reliable and accurate parenting control scheme which allows children to watch safer educational content.

Regarding **claim 12**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; however, it is noted that Thomas fails to explicitly disclose a data entry system for selectively inputting the viewer, time range and content-based specifications into the non-volatile memory for storage.

Nevertheless, in a similar field of endeavor Johnson discloses a data entry system for selectively inputting the viewer, time range and content-based specifications into the non-volatile memory for storage (Paragraph [0008] [0016] [0029] [0082] also exhibited on fig 5-6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas by specifically providing the elements

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mentioned above, as taught by Johnson, for the purpose of implementing a reliable and accurate parenting control scheme which allows children to watch safer educational content.

Regarding **claim 13**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the non-volatile memory includes a look-up list for storing a plurality of viewer specification (A memory containing user profiles, column 2 lines 9-13; moreover, Thomas discloses that all the IDE connectors [124] are standard devices such as hard drives, which are non volatile memory, column 5 lines 24-27. Where system [200] includes a list of persons and the rating of content suitable for each of those persons, column 10 lines 58-60).

However, it is noted that Thomas fails to explicitly disclose that the non-volatile memory includes a look-up list for storing associated time range and content-based specifications.

Nevertheless, in a similar field of endeavor Johnson discloses that the non-volatile memory includes a look-up list for storing associated time range and content-based specifications (Paragraph [0016] [0029] [0082] fig 5 and 6; a memory stores the user profile records which includes the rating limits and viewing hours).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Thomas by specifically providing the elements mentioned above, as taught by Johnson, for the purpose of implementing a reliable and

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accurate parenting control scheme which allows children to watch safer educational content.

Regarding **claim 14**, Thomas, Johnson and Rodriguez disclose the consumer electronics device of claim 1; moreover, Thomas discloses that the program signal carries the content-based indicator and timing information (program content (220) provides a content indication signal (219) indicative of the type of content in the program material, column 6 lines 62-65); moreover, program content [220] contains information about the time-span of the program material, column 7 lines 6-8),

and further comprising a data extraction device coupled to the logic unit for extracting the content-based indicator and timing information (Program content [220] outputs the program content signal [221] and a content indicator signal [219] which is then coupled to decision and command processor [214], column 6 lines 63-65 also exhibited on fig 2).

Regarding **claim 22**, Thomas, Johnson and Rodriguez disclose all the limitations of claim 22; therefore, claim 22 is rejected for the same reasons as in claim 1.

Regarding **claim 23**, Thomas, Johnson and Rodriguez disclose the recordable medium of claim 22; moreover, Thomas discloses that the viewer monitoring system

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comprises a facial recognition system (user recognition input device [208], column 9 lines 14-16 also exhibited on 2).

Regarding **claim 24**, Thomas, Johnson and Rodriguez disclose all the limitations of claim 24; therefore, claim 24 is rejected for the same reasons as in claims 9 and 10, respectively.

Regarding **claims 25, 26, 27, 28, 29, 30, 31 and 32**, Thomas, Johnson and Rodriguez disclose all the limitations of claims 25, 26, 27, 28, 29, 30, 31 and 32; therefore, claims 25, 26, 27, 28, 29, 30, 31 and 32 are rejected for the same reasons as in claims 2, 3, 4, 13, 14, 7, 8 and 11, respectively.

Regarding **claims 33, 34 and 35**, Thomas, Johnson and Rodriguez disclose all the limitations of claims 33, 34 and 35; therefore, claims 33, 34 and 35 are rejected for the same reasons as in claims 4, 13 and 14, respectively.

(10) Response to Argument

Appellant's arguments filed 06/06/2011 have been fully considered but they are not persuasive.

- **With respect to claims 1 and 22, the appellant argues that the disclosure of Rodriguez would not be combined by one of ordinary skill in the art with either Thomas or Johnson because this would alter the principle of operation of Thomas and Johnson and would make Thomas unsatisfactory for its intended purpose, See arguments page 12 first paragraph, page 16 lines 2-5 of appeal brief.**

Regarding claims 1 and 22, the appellant suggests that the examiner has used improper hindsight to support the obviousness rejection as the prior art does not support the combination of the cited references, page 16 second paragraph. The appellant claims that the non-viewer based method of Rodriguez would render the method of Thomas unsatisfactory for its intended purpose, and therefore there are no suggestions or motivation to make the modification proposed and relied upon by the examiner, page 16 lines 2-4 of appeal brief.

However, the examiner respectfully disagrees with the appellant. The Thomas reference contemplates the use of a room scanner 200 that scans a house region for users present in a room area 301 and outputs a signal 211 to indicate the presence of the identified viewers in the area 301, col. 6 lines 52-53 figure 3. Further

implementing a viewing criteria 216 that specifies the material that each user is allowed to have access to based on the user identity value (col. 5 lines 55-67), where command processor 214 determines and makes a decision as to whether the present viewer is allowed to view the content being presented on the television display 224, see col. 9 lines 51-57 of Thomas.

On the other hand, Johnson discloses that each identified user may include a detailed user profile, implemented for parental control purposes, see abstract and figure 6. Furthermore, Johnson discloses that a user profile may also include a plurality of time ranges, i.e. weekend viewing hours, and content based specifications, i.e. rating limits, as parental control boundaries for each user profile, see paragraphs [0016] [0029] [0082] and figure 6.

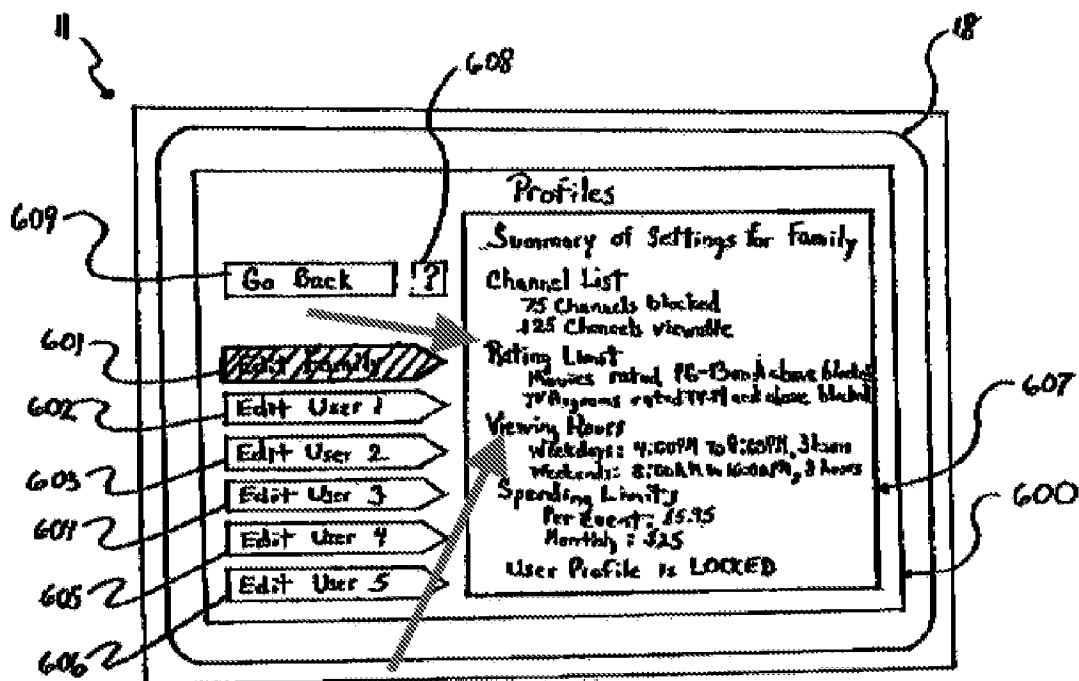


Figure 6

Furthermore, the examiner would like to point out that the Rodriguez reference not only teaches a method for blocking specified programming during certain times, as stated by the appellant in page 13 second paragraph, but also discloses that content based programming 2904, i.e. content based specification, may be blocked for each specified particular time range 2902, as disclosed in paragraphs [0124] [0116] figure 29C:

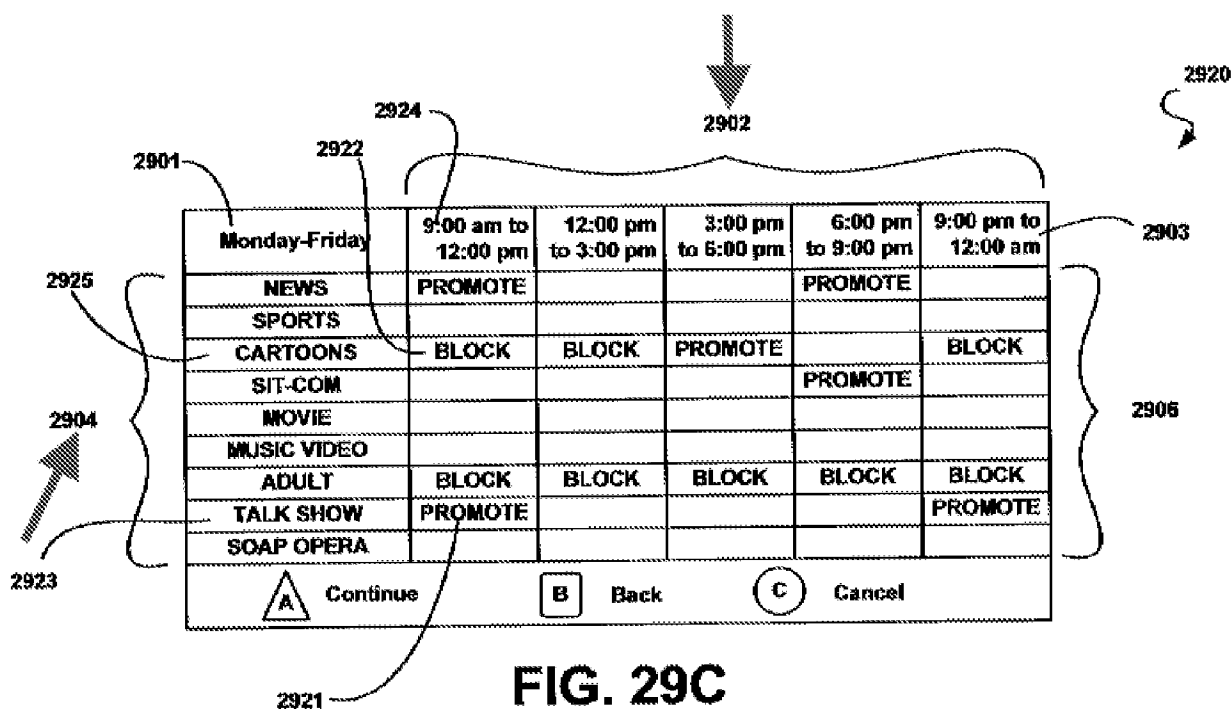


FIG. 29C

Hence, Rodriguez clearly teaches that a time range specification 2902 may correspond individually to a separate content-based specification 2904 as claimed in claims 1 and 23, see paragraphs [0124] [0116] of Rodriguez.

Moreover, the appellant states that Rodriguez does not discuss or suggest the use of viewing profiles, and that the program is either blocked or not blocked based on time without any reference to a viewer or parameter set for individual viewers as

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is required by the claims, see page 15 first paragraph. However, the examiner reiterates that each time range specification 2902 is indeed tied to an individual content based specification parameter 2904. In addition, Rodriguez does indeed teach the implementation of a plurality of viewer profiles, by implementing an access identification scheme, e.g. PIN, in order to determine whether to allow access to a blocked content, paragraphs [0115] [0118]. Hence, Rodriguez contemplates a plurality of distinct groups: users who do not have a valid authorization access number, and users who possess their respective valid personal identification number. Furthermore, Rodriguez discloses that authorized users may be identified and distinguished from one another via the entry of a valid password, via speech recognition or fingerprint recognition; see paragraph [0015] lines 13-15. Therefore, the teachings of Rodriguez are not in contracts with the teachings of Thomas and Johnson, since the blocking scheme of Rodriguez is indeed based on identified users characterized by their respective personal identification number, i.e. PIN.

The examiner notes that the teaching of Thomas and Johnson do not discourage or preclude the implementation of the teachings of Rodriguez. One of ordinary skill in the art would have recognized that the core principles of Thomas and Johnson could be modified by the teaching of Rodriguez with reasonable expectations of success. In response to appellant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was

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within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the appellant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Thomas, Johnson and Rodriguez pursue similar objectives (i.e. parental control) in a analogous field of endeavor, where a person of ordinary skill in the art would recognize that their combination would produce the predictable result of allowing a parent to configure a television system to block objectionable content material while children are awake and present more content (restricted and non-restricted) when only adults are around, hence the implementation of independent ratings parameters 2904 for different time range specifications 2902. Therefore, the combination of Thomas, Johnson and Rodriguez as described by the examiner on the last office action is proper.

- **With respect to dependent claims 2 – 14 and 23 – 35, the appellant argues that they are patentable for the same reasons discussed for claims 1 and 22, see page 16 last paragraph of appeal brief.**

The examiner would like to point to the response to arguments regarding independent claims 1 and 22. Claims 2 – 14 and 23 – 35 depend from independent claims 1 and 22.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Junior O Mendoza/
Examiner, Art Unit 2423

Conferees:

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2423

/Brian T Pendleton/
Supervisory Patent Examiner, Art Unit 2425